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II. Annotations

1. Opening of the session

The thirty-fourth session will be held at the Vienna International Centre from 25 June to 13 July 2001. The session will be opened on Monday, 25 June 2001, at 10 a.m. As at 25 June 2001, the United Nations Commission on International Trade Law will be composed of the following member States: Austria, Benin, Brazil, Burkina Faso, Cameroon, Canada, China, Colombia, Fiji, France, Germany, Honduras, Hungary, India, Iran (Islamic Republic of), Italy, Japan, Kenya, Lithuania, Mexico, Morocco, Paraguay, Romania, Russian Federation, Rwanda, Sierra Leone, Singapore, Spain, Sudan, Sweden, Thailand, the former Yugoslav Republic of Macedonia, Uganda, United Kingdom of Great Britain and Northern Ireland, United States of America, and Uruguay (which alternates annually with Argentina). In addition, States not members of the Commission, as well as invited international organizations, may attend as observers and participate in the deliberations.

2. Election of officers

Pursuant to a decision taken by the Commission at its first session, the Commission elects, for each session, a Chairman, three Vice-Chairmen and a Rapporteur.

4. Draft Convention on Assignment of Receivables in International Trade

At its thirty-third session, in 2000, the Commission approved articles 1-7 and referred the remaining articles of the draft Convention on Assignment of Receivables in International Trade and the annex to the draft Convention back to the Working Group on International Contract Practices.[1] The Working Group, which met from 11 to 22 December 2001, completed the task entrusted to it by the Commission. The consolidated text of the draft Convention appears as annex I to the report of the Working Group on the work of its twenty-third session (A/CN.9/486). That report will be before the Commission. The Commission will also have before it an analytical commentary on the draft Convention prepared by the Secretariat (A/CN.9/489 and Add.1) and a compilation of comments on the draft Convention received from Governments and international organizations (A/CN.9/490 and Add.1-).

After having reviewed and revised the draft Convention, the Commission may wish to approve the draft Convention and decide whether to recommend its adoption by the General Assembly or by a diplomatic conference to be specially convened by the General Assembly for that purpose.[2]

5. Draft UNCITRAL Model Law on Electronic Signatures and draft Guide to Enactment

At its thirtieth session, in 1997, the Commission entrusted the Working Group on Electronic Commerce with the preparation of uniform rules on the legal issues of digital signatures and certification authorities.[3] The Working Group began the preparation of uniform rules for electronic signatures at its thirty-second session, held in January 1998, and continued that work at its thirty-third to thirty-sixth sessions, held in July 1998, February 1999, September 1999 and February 2000, respectively. The reports of the Working Group on the work of those sessions (A/CN.9/446, A/CN.9/454, A/CN.9/457, A/CN.9/465 and A/CN.9/467) were considered by the Commission at its thirty-first,[4] thirty-second[5] and thirty-third[6] sessions.

At its thirty-seventh session, in September 2000, and at its thirty-eighth session, in March 2001, the Working Group proceeded with its work on the basis of notes prepared by the Secretariat. At its thirty-seventh session, the Working Group agreed to change the title of the instrument to "UNCITRAL Model Law on Electronic Signatures" and approved the text of draft articles 2 and 13 (the text of draft articles 1 and 3-12 having been approved by the Working Group at its thirty-sixth session). The full text of the draft Model Law, as recommended by the Working Group for adoption by the Commission, appears as an annex to document A/CN.9/483. The Working Group completed the review and adopted the draft Guide to Enactment of the Model Law at its thirty-eighth session. The Commission will have before it the reports of the Working Group on the work of its thirty-seventh and thirty-eighth sessions (A/CN.9/483 and A/CN.9/484). The Commission will also have before it the text of the draft Guide to Enactment (A/CN.9/493) and a compilation of comments on the draft Model Law received from member States and observers (A/CN.9/492 and Add.1-).

The Commission may wish to review and adopt the draft Model Law and its draft Guide to Enactment.

6. Possible future work on electronic commerce

At its thirty-second session, in 1999, the Commission took note of a recommendation adopted on 15 March 1999 by the Centre for the Facilitation of Procedures and Practices for Administration, Commerce and Transport (CEFACT) of the Economic Commission for Europe that UNCITRAL should consider the actions necessary to ensure that references to "writing", "signature" and "document" in conventions and agreements relating to international trade allowed for electronic equivalents.[7] Further proposals for future work in the field of electronic commerce were considered by the Commission at its thirty-third session, in 2000.[8] Three topics were then suggested as indicating possible areas where work by the Commission would be desirable and feasible: electronic contracting, considered from the perspective of the United Nations Sales Convention; online dispute

settlement mechanisms; and dematerialization of documents of title, in particular in the transport industry.

The Commission will have before it the report of the Working Group on Electronic Commerce on the work of its thirty-eighth session (A/CN.9/484), at which the Working Group examined the above-mentioned topics and agreed to recommend to the Commission that work towards the preparation of an international instrument dealing with certain issues in electronic contracting should begin on a priority basis. At the same time, it was agreed to recommend to the Commission that the Secretariat be entrusted with the preparation of the necessary studies concerning other topics considered by the Working Group, namely: (a) a comprehensive survey of possible legal barriers to the development of electronic commerce in international instruments, including, but not limited to, those instruments already mentioned in the CEFACT survey; (b) a further study of the issues related to transfer of rights, in particular, rights in tangible goods, by electronic means and mechanisms for publicizing and keeping record of acts of transfer or the creation of security interests in such goods; and (c) a study discussing the UNCITRAL Model Law on International Commercial Arbitration, as well as the UNCITRAL Arbitration Rules, to assess their appropriateness for meeting the specific needs of online arbitration.

7. Insolvency law

At its thirty-second session, in 1999, the Commission had before it a proposal by Australia (A/CN.9/462/Add.1) on possible future work in the area of insolvency law. Although it was generally agreed that the Commission could not take a final decision on committing itself to establishing a working group to develop model legislation or another text without further study of the work already being undertaken by other organizations and consideration of the relevant issues, the prevailing view was that an exploratory session of a working group should be convened to prepare a feasibility proposal for consideration by the Commission at its thirty-third session.[9]

At its twenty-second session, the Working Group on Insolvency Law considered the feasibility of the Commission undertaking further work on insolvency law. After deliberation, the Working Group adopted a recommendation that the Commission undertake further work on that topic (A/CN.9/469, para. 140). At its thirty-third session, in 2000, the Commission gave the Working Group the mandate to prepare a comprehensive statement of key objectives and core features for a strong insolvency, debtor-creditor regime, including consideration of out-of-court restructuring, and a legislative guide containing flexible approaches to the implementation of such objectives and features, including a discussion of the alternative approaches possible and the perceived benefits and detriments of such approaches. It was noted that, in order to obtain the views and benefit from the expertise of other organizations, the Secretariat would organize a colloquium before the next session of the Working Group, in cooperation with the International Federation of Insolvency Professionals (INSOL International) and the International Bar Association (IBA), as had been proposed by those organizations.[10]

The Commission will have before it the report on the UNCITRAL/INSOL/IBA Global Insolvency Colloquium, which was organized with the assistance of and co-sponsored by INSOL International, in conjunction with IBA, and held in Vienna from 4 to 6 December 2000 (A/CN.9/495). The colloquium was attended by

approximately 150 participants from 40 countries; the participants included lawyers, accountants, bankers, judges and insolvency practitioners, as well as representatives of Governments and international organizations such as the World Bank, the International Monetary Fund, the Asian Development Bank, the European Bank for Reconstruction and Development, IBA, and INSOL International. Broad support was expressed by participants in favour of the Commission undertaking work on the key elements of an effective insolvency regime.

8. Settlement of commercial disputes

At its thirty-second session, in 1999, the Commission decided to put several topics relating to the settlement of commercial disputes on its agenda.[11] The Commission entrusted the work to the Working Group on Arbitration (previously called the Working Group on International Contract Practices), which commenced its work at its thirty-second session, in March 2000. It continued its work at its thirty-third session, held in Vienna from 20 November to 1 December 2000 (the report of that session is contained in document A/CN.9/485).

At its thirty-second session, the Working Group considered the possible preparation of harmonized texts on the written form of arbitration agreements, interim measures of protection and conciliation. In addition, the Working Group exchanged preliminary views on other topics that might be taken up in the future. At its thirty-third session, the Working Group discussed a draft interpretative instrument in respect of the writing requirement in article II (2) of the 1958 Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the New York Convention) and the preparation of harmonized texts on the written form for arbitration agreements, interim measures of protection and conciliation (see the report of the Working Group on the work of that session (A/CN.9/485)). The Working Group will hold its thirty-fourth session in New York from 21 May to 1 June 2001. The report of the Working Group on the work of that session (A/CN.9/487) will be before the Commission at its thirty-fourth session.

9. Monitoring implementation of the 1958 New York Convention

At its twenty-eighth session, in 1995, the Commission approved the project, undertaken jointly with Committee D of IBA, aimed at monitoring the legislative implementation of the 1958 New York Convention.[12] Stressing that the purpose of the project was not to monitor individual court decisions applying the Convention, the Commission called upon the States parties to the Convention to send to the Secretariat the laws dealing with the recognition and enforcement of foreign arbitral awards. As at 12 April 2001, the Secretariat had received 59 replies to a questionnaire that had been sent to the States parties to the Convention relating to its legislative implementation. The Secretariat will present an oral progress report to the Commission.

10. Possible future work on transport law

At its twenty-ninth session, in 1996, the Commission considered a proposal to include in its programme of work a review of current practices and laws in the area of the international carriage of goods, with a view to establishing the need for uniform rules where no such rules existed and with a view to achieving greater uniformity of laws than had so far been achieved. At that session, it was decided

that the Secretariat should be the focal point for a broad-based gathering of information, ideas and opinions as to the problems that arose in practice and possible solutions to those problems. At its thirty-first and thirty-second sessions, in 1998 and 1999, respectively, the Commission heard and discussed progress reports on the requested exploratory work, which had been carried out in cooperation with the International Maritime Committee (CMI).[13] At its thirty-third session, in 2000, the Commission took note of the fact that the Secretariat was organizing, in cooperation with CMI, a Transport Law Colloquium, which was to be held on 6 July 2000, for the purpose of gathering ideas and expert opinions on problems arising in the international carriage of goods, in particular the carriage of goods by sea, and to incorporate that information into the report to be presented to the Commission at its thirty-fourth session, in 2001.[14] The Commission requested the Secretariat to continue to cooperate actively with CMI with a view to presenting, at the next session of the Commission, a report identifying issues in transport law in respect of which the Commission might undertake future work and, to the extent possible, also presenting possible solutions.[15] That report (A/CN.9/497) will be before the Commission at its thirty-fourth session.

11. Possible future work on security interests

At its thirty-third session, in 2000, the Commission considered work undertaken by other organizations in the field of security interests on the basis of a report by the Secretary-General (A/CN.9/475). After consideration of that report, the Commission requested the Secretariat to prepare a study discussing in detail selected problems in the field of secured credit law and the possible solutions for consideration by the Commission at its thirty-fourth session.[16] The study requested by the Commission is contained in document A/CN.9/496.

12. Possible future work on privately financed infrastructure projects

At its thirty-third session, in 2000, the Commission adopted the UNCITRAL Legislative Guide on Privately Financed Infrastructure Projects and considered a proposal for future work in that area. After consideration of the various views expressed, the Commission decided that the question of the desirability and feasibility of preparing a model law or model legislative provisions on selected issues covered by the Legislative Guide should be considered by the Commission at its current session.[17] In order to assist the Commission in making an informed decision on the matter, the Secretariat was requested to organize a colloquium, in cooperation with other interested international organizations or international financial institutions, to disseminate knowledge about the Legislative Guide. The participants in the colloquium should be invited to make recommendations on the desirability and, especially, the feasibility of a model law or model legislative provisions in the area of privately financed infrastructure projects for consideration by the Commission at its thirty-fourth session. The colloquium will be held at the Vienna International Centre during the second week of the thirty-fourth session of the Commission, from 2 to 4 July 2001. The views expressed and the recommendations made at the colloquium will be submitted by the Secretariat for consideration by the Commission at the latest during the last week of the thirty-fourth session of the Commission, from 9 to 11 July 2001.

13. Enlargement of membership of the Commission

In its resolution 55/151 of 12 December 2000, the General Assembly requested the Secretary-General to submit to it at its fifty-sixth session a report on the implications of increasing the membership of the Commission and invited States to submit their views on that issue. In his note verbale dated 25 January 2001, the Secretary-General requested States to submit their views by 15 March 2001. The Secretariat has prepared a note that summarizes the views expressed by States and discusses various issues related to a possible enlargement of the membership of the Commission (A/CN.9/500), with a view to assisting the Commission in considering the matter and making a recommendation on it to the General Assembly.

14. Working methods of the Commission

In view of the increased workload of the Commission and its working groups, the Secretariat has prepared a note containing a review of the current working methods of the Commission and proposals for enhancing their efficiency (A/CN.9/499).

15. Case law on UNCITRAL texts (CLOUT)

Pursuant to a decision by the Commission at its twenty-first session, in 1988, the Secretariat established a system for collecting and disseminating information on court decisions and arbitral awards relating to normative texts emanating from the work of the Commission.[18] The system relies on national correspondents designated by States that have become parties to an UNCITRAL convention or that have enacted legislation based on an UNCITRAL model law. Sixty-seven such States have designated national correspondents. The features of that system are explained in the User Guide (A/CN.9/SER.C/GUIDE/1/Rev.1). Abstracts of court decisions relating to the United Nations Convention on Contracts for the International Sale of Goods ("the United Nations Sales Convention"), the United Nations Convention on the Carriage of Goods by Sea (Hamburg Rules) and the UNCITRAL Model Law on International Commercial Arbitration are contained in documents A/CN.9/SER.C/ABSTRACTS/1-33. A thesaurus of the United Nations Sales Convention and an index of cases applying the Convention are contained in documents A/CN.9/SER.C/INDEX/1 and A/CN.9/SER.C/INDEX/2/Rev.2, respectively.

16. Digest of United Nations Sales Convention case law: interpretation of texts

Since the establishment of the CLOUT system, 358 cases have been reported and a significant amount of information on the interpretation of several legal texts, in particular the United Nations Sales Convention, has been disseminated. It has been suggested by users of that material that an analytical digest of the cases would greatly facilitate and promote understanding and a more uniform interpretation of the Convention, bringing the case information together in one publication and identifying trends in interpretation. Following those suggestions, the Secretariat has prepared a sample of an analytical digest dealing with selected provisions of the United Nations Sales Convention (A/CN.9/498), for the purpose of assisting the Commission in its consideration of the desirability of preparing and publishing such comparative analyses of decisions related to texts emanating from its work.

17. Training and technical assistance

The Commission will have before it a note by the Secretariat on training and technical assistance (A/CN.9/494).

18. Status and promotion of UNCITRAL legal texts

The Commission will have before it a note by the Secretariat (A/CN.9/501) concerning the present status of the Convention on the Limitation Period in the International Sale of Goods (New York, 1974); the United Nations Convention on the Carriage of Goods by Sea, 1978 (Hamburg Rules); the United Nations Convention on Contracts for the International Sale of Goods (Vienna, 1980); the Convention on the Limitation Period in the International Sale of Goods, concluded at New York on 14 June 1974, as amended by the Protocol of 11 April 1980; the United Nations Convention on International Bills of Exchange and International Promissory Notes (New York, 1988); the United Nations Convention on the Liability of Operators of Transport Terminals in International Trade (Vienna, 1991); the United Nations Convention on Independent Guarantees and Standby Letters of Credit (New York, 1995); the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York, 1958); the UNCITRAL Model Law on International Commercial Arbitration; the UNCITRAL Model Law on International Credit Transfers; the UNCITRAL Model Law on Procurement of Goods, Construction and Services; the UNCITRAL Model Law on Electronic Commerce; and the UNCITRAL Model Law on Cross-Border Insolvency.

19. General Assembly resolutions on the work of the Commission

The Commission may wish to take note of General Assembly resolution 55/151, on the report of the Commission on the work of its thirty-third session. Copies of the resolution and the report of the Sixth Committee (A/55/608) will be made available at the thirty-fourth session of the Commission.

20. Coordination and cooperation

Representatives of other international organizations will be given an opportunity to apprise the Commission of their current activities and possible means of strengthening cooperation.

21. Other business

An oral report will be presented on the Eighth Annual Willem C. Vis International Commercial Arbitration Moot competition.

The Commission will have before it a bibliography of recent writings related to its work (A/CN.9/502).

22. Date and place of future meetings

Thirty-fifth session of the Commission

The thirty-fifth session of the Commission will be held in New York. Arrangements have been made for the session to be held for up to three weeks, from 10 to 28 June 2002.

Future sessions of the Working Group on Electronic Commerce

The thirty-ninth session of the Working Group on Electronic Commerce could be held in Vienna from 17 to 28 September 2001 and the fortieth session could be arranged to be held in New York during the first quarter of 2002.

Future sessions of the Working Group on Arbitration

The thirty-fifth session of the Working Group on Arbitration could be held in Vienna from 19 to 30 November 2001 and the thirty-sixth session could be arranged to be held in New York during the second quarter of 2002.

Future sessions of the Working Group on Insolvency Law

The twenty-fourth session of the Working Group on Insolvency Law could be held in Vienna from 23 July to 3 August 2001 and the twenty-fourth session could be arranged to be held in New York during the second quarter of 2002.

23. Adoption of the report of the Commission

The General Assembly, in its resolution 2205 (XXI) of 17 December 1966, decided that the Commission should submit an annual report to it and that the report should be submitted simultaneously to the United Nations Conference on Trade and Development for comment. Pursuant to a decision of the Sixth Committee (A/7408, para. 3), the report of the Commission is introduced to the Assembly by the Chairman of the Commission or by another officer of the Bureau designated by the Chairman.

III. Meeting of CLOUT national correspondents

Since the twenty-second session of the Commission, it has become customary to hold, in conjunction with sessions of the Commission, meetings of the national correspondents for the system for the collection of case law on UNCITRAL texts (CLOUT). It is planned that the national correspondents will meet on Thursday, 12 June 2001, when no meeting of the Commission has been scheduled, and possibly on Friday, 13 June, after the adoption of the report by the Commission. Further information concerning the precise time and venue of the meeting of national correspondents will be communicated during the session.

IV. Scheduling of meetings

The Commission will have 14 working days to consider the agenda items at its thirty-fourth session. Thursday, 12 July 2001, will be used by the Secretariat to prepare the draft report, which is to be adopted on Friday, 13 July.

The Secretariat recommends that the agenda items be taken up in numerical order and that five days (from Monday, 25 June, to Friday, 29 June) or, if necessary, six days (including Monday, 2 July) be devoted to the consideration of the draft Convention on Assignment of Receivables in International Trade (agenda item 4, following the consideration of items 1-3). The approval of the final text of the draft Convention would take place on Friday, 6 July, in order to allow time to ensure consistency in all language versions. The period from Tuesday, 3 July, to Friday,

6 July, might be devoted to the consideration of agenda items 5 and 6. Agenda items 7-23 might be taken up during the time remaining, from 9 to 11 July. It should be noted that the above recommendations on the scheduling of agenda items are intended to assist States and interested organizations in planning the attendance of their pertinent representatives; the actual scheduling will be determined by the Commission itself.

Meetings will be held from 9.30 a.m. to 12.30 p.m. and from 2 to 5 p.m., except on Monday, 25 June, when the morning meeting will commence at 10 a.m.

Notes

[1] *Official Records of the General Assembly, Fifty-fifth Session, Supplement No. 17* (A/55/17), paras. 180-182 and 186-188.

[2] Ibid., para. 189.

[3] Ibid., *Fifty-second Session, Supplement No. 17* and corrigendum (A/52/17 and Corr.1), paras. 249-251.

[4] Ibid., *Fifty-third Session, Supplement No. 17* (A/53/17), paras. 207-211.

[5] Ibid., *Fifty-fourth Session, Supplement No. 17* (A/54/17), paras. 308-314.

[6] Ibid., *Fifty-fifth Session, Supplement No. 17* (A/55/17), paras. 330-383.

[7] Ibid., *Fifty-fourth Session, Supplement No. 17* (A/54/17), para. 316.

[8] Ibid., *Fifty-fifth Session, Supplement No. 17* (A/55/17), paras. 384-388.

[9] Ibid., *Fifty-fourth Session, Supplement No. 17* (A/54/17), para. 385.

[10] Ibid., *Fifty-fifth Session, Supplement No. 17* (A/55/17), para. 408.

[11] Ibid., *Fifty-fourth Session, Supplement No. 17* (A/54/17), paras. 339 and 340-379.

[12] Ibid., *Fiftieth Session, Supplement No. 17* (A/50/17), paras. 401-404; ibid., *Fifty-first Session, Supplement No. 17* (A/51/17), paras. 238-243; ibid., *Fifty-second Session, Supplement No. 17* and corrigendum (A/52/17 and Corr. 1), paras. 257-259; ibid., *Fifty-third Session, Supplement No. 17* (A/53/17), paras. 232-235; ibid., *Fifty-fourth Session, Supplement No. 17* (A/54/17), paras. 331-332; and ibid., *Fifty-fifth Session, Supplement No. 17* (A/55/17), paras 410-412.

[13] Ibid., *Fifty-third Session, Supplement No. 17* (A/53/17), paras. 260-267; and ibid., *Fifty-fourth Session, Supplement No. 17* (A/54/17), paras. 410-418.

[14] Ibid., *Fifty-fifth Session, Supplement No. 17* (A/55/17), para. 426.

[15] Ibid., para. 427.

[16] Ibid., para. 463.

[17] Ibid., para. 379.

[18] Ibid., *Forty-third Session, Supplement No. 17* (A/43/17), paras. 98-109.